

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of

Petition for the Extension of the Compliance Date
Under Section 107(c) of the Communications
Assistance for Law Enforcement Act

CC Docket No. 97-213

SBC COMMUNICATIONS INC.
PETITION FOR EXTENSION OF COMPLIANCE DATE

SBC Communications Inc., on behalf of its affiliates named below,
submits its Petition for Extension ("Petition") of the October 25, 1998 compliance date
pursuant to Section 107(c) of the Communications Assistance for Law Enforcement Act
("CALEA") because compliance with CALEA's assistance capability requirements is not
reasonably achievable within the compliance period. 47 U.S.C. § 1006. The
Commission should grant the Petition and extend the compliance date until October 25,
2000, which is two years from the current compliance date, or until such date as
compliance with standards would be reasonably achievable pursuant to §1006(b)(5).

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I. INTRODUCTION

Southwestern Bell Telephone Company ("SWBT"), Pacific Bell, Nevada Bell, Southwestern Bell Wireless Inc. ("SWBW"), Southwestern Bell Mobile Systems, Inc., ("SBMS") and Pacific Bell Mobile Services, Inc. ("PBMS") (collectively "SBC Carriers") are wholly-owned subsidiaries of SBC Communications Inc. SWBT, Pacific Bell and Nevada Bell are local exchange carriers that provide wire communications in their respective geographic areas and are "telecommunications carriers" under Section 102(8)(A) of CALEA. 47 U.S.C. §1001(8)(A) ("a person or entity engaged in the transmission or switching of wire or electronic communications as a common carrier for hire"). SWBW, SBMS, and PBMS provide commercial mobile radio services on their own behalf and on behalf of their affiliates and are "telecommunications carriers" under Section 102(8)(B)(i) of CALEA. 47 U.S.C. §1001(8)(B)(i) (a person or entity engaged in providing commercial mobile service, as defined in section 332 (d) of the Communications Act of 1934 (47 U.S.C. § 332(d)). As such, the SBC Carriers are subject to the requirements of CALEA, including the assistance capability requirements of Section 103 and the enforcement provisions of Section 108. Thus, the SBC Carriers will be directly affected by the implementation of CALEA and rightfully petition the Commission in this matter.

II. CALEA AUTHORIZES THE EXTENSION OF THE COMPLIANCE DATE

Under §1006(c)(1), telecommunications carriers may, prior to the compliance date, petition the Commission to extend the deadline for complying with the

Section 103 assistance capability requirements of CALEA. CALEA provides the following grounds for granting an extension:

The Commission may, after consultation with the Attorney General, grant an extension under this subsection if the Commission determines that compliance with the assistance capability requirements under section 103 is not reasonably available through application of technology available within the compliance period.

47 U.S.C. § 1006 (c)(2).

The SBC Carriers meet the §1006(c)(2) standard for an extension of the compliance date because technology with which to fully comply with the assistance capability requirements under CALEA section 103 will not be reasonably available to permit them to comply in a timely manner. Moreover, given the uncertainty of the compliance standard and the ramifications for product rollout, carriers cannot reasonably be expected to install products developed based on the challenged standards and take the risk that their costs of attempting to meet CALEA assistance capability standards will not be reimbursable.

III. COMPLIANCE IS NOT REASONABLY ACHIEVABLE WITH AVAILABLE TECHNOLOGY

A. The CALEA Capability Standard Must be Resolved by the Commission.

Since the initiation of negotiations between the telecommunications industry and the FBI regarding the assistance capability requirements of CALEA Section 103, an impasse has existed over the appropriate standard to comply with CALEA. This impasse has impeded the development and availability of equipment necessary for

carriers to provide assistance in compliance with CALEA. In late 1997, the Telecommunications Industry Association ("TIA") adopted and published the interim standard,¹ J-STD-025, to avoid further extensive delay in CALEA compliance while the parties worked through the standards issues. Most recently, however, the impasse has been resurrected and exacerbated by the petitions filed by the Federal Bureau of Investigation and Department of Justice² and the Center for Democracy and Technology³ before the Commission within the last 45 days reflecting their divergent positions. The FBI Petition and the CDT Petition have each asked the Commission to declare that the "safe harbor" interim standard is deficient under §1006(b). The FBI seeks to expand the interim standard with its proposed enhanced surveillance features (i.e. the punch list). CDT seeks to reduce the features in the interim standard due to privacy concerns.⁴ The effect of these petitions is to further bring uncertainty to the CALEA compliance process and to insure that the uncertainty will continue for some time to come. Thus, neither the SBC Carriers nor its suppliers are confident about the features which should be

¹ Interim Standard, Lawfully Authorized Electronic Surveillance, J-STD-025, TIA TR45.2 and Committee T1, November 20, 1997.

² Establishment of Technical Requirements and Standards for Telecommunications Carrier Assistance Capabilities Under the Communications Assistance for Law Enforcement Act, *Joint Petition for Expedited Rulemaking*, Federal Bureau of Investigation and U.S. Department of Justice, filed March 27, 1998 ("FBI Petition").

³ Communications Assistance for Law Enforcement, *Petition for Rulemaking under Sections 107 and 109 of the Communications Assistance for Law Enforcement Act*, Center for Democracy and Technology, filed March 26, 1998 ("CDT Petition").

⁴ The Commission is well aware of the substance and issues raised by these petitions concerning the assistance capability standard and requests comments pursuant to its Public Notice, DA 98-71, released April 20, 1998. SBC will file comments on those issues and requests that SBC Comments, dated May 8, 1998 regarding the extension of the compliance date be incorporated by reference herein.

implemented into any product to be CALEA compliant. The uncertainty surrounding the interim standard will be resolved only with guidance from the Commission. Until then, neither the SBC Carriers nor its suppliers, Lucent Technologies, Ericsson Inc., and Nortel, should be required to devote resources and time in developing hardware and software that might later be found to be non-compliant.

B. Manufacturers are unable to proceed to implement a CALEA compliant solution.

Lucent Technologies, Ericsson Inc. and Nortel design, build, and deliver to telecommunications carriers a wide range of public and private networks, communications systems and software, data network systems, business telephone systems and microelectronics components. Lucent is a primary telecommunications equipment manufacturer for SWBT, Pacific Bell, Nevada Bell, SBMS, and SWBW. Nortel is a primary telecommunications equipment manufacturer for SWBT, Pacific Bell, Nevada Bell, and SWBW. Ericsson is a primary telecommunications equipment manufacturer for SBMS, SWBW, and PBMS. The SBC Carriers have consulted with each of these manufacturers of telecommunications equipment regarding compliance with the assistance capability requirements of CALEA. Without exception, those manufacturers report that they are unable to implement a CALEA compliant solution by October 1998 due to the uncertain standards.

Even after this impasse is resolved, carriers and manufacturers will need time to develop and implement a solution. Section 1006(b)(5) allows the Commission to provide a reasonable time and conditions for compliance and transition to any new

standard. As pointed out in the AWS Petition,⁵ standard industry practice requires 24-30 months of development before manufacturers can even release a software package containing new features.⁶ Yet, the interim standard was adopted by TIA in December 1997, less than one year before the current compliance date.

The SBC Carriers cannot comply with the assistance capability requirements of CALEA with the application of technology available during the compliance period. Thus, the SBC Carriers should be granted an extension of the compliance date.

IV. THE EXTENSION SHOULD ALLOW A REASONABLE TIME PERIOD FOR CARRIERS TO COMPLY

Under Section 1006(c)(3), the compliance date may be extended for a period of two years from the date on which the extension is granted or a date determined to be necessary for the carrier to comply with the assistance capability requirements, whichever is less. 47 U.S.C. §1006(c)(3). In addition, Section 1006(b)(5) allows the Commission to provide a reasonable time and conditions for compliance and transition to any new standard. 47 U.S.C. §100(b)(5). As stated above, it is reasonable to determine that manufacturers will need up to 24-30 months after the standard is finalized to

⁵ AT&T Wireless Services, Inc., Lucent Technologies, Inc., and Ericsson, Inc., *Petition for Extension of the Compliance Date under Section 107 of the Communications for Law Enforcement Act*, filed March 30, 1998 ("AWS Petition"). Because the AWS Petition does not differentiate between wireline and wireless solutions, SBC Carriers assume that AWS's Petition for Extension includes both wireline and wireless products.

⁶ AWS Petition at p.5.

implement a compliant solution. Thus, SBC Carriers request that the Commission extend the compliance period for at least two years, until October 25, 2000 or until such date as compliance with new standards would be reasonably achievable pursuant to §1006(b)(5). SBC Carriers also join AT&T Wireless Services in requesting that the Commission toll the extension during the pendency of these CALEA proceedings before the Commission if those proceedings last beyond October 24, 1998.

V. CONCLUSION

For the reasons discussed above, the Commission should grant this request for an extension of the CALEA compliance date. An extension will permit the Commission to decide on the issues raised by the various petitions on CALEA, and

enable the SBC Carriers to implement CALEA requirements in a reasonable and prudent manner.

Respectfully submitted,

SBC COMMUNICATIONS INC.

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Date: May 8, 1998

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Certificate of Service

I, Mary Ann Morris, hereby certify that the foregoing, "Petition for Extension of Compliance Date by SBC Communications Inc." in Docket No. 97-213 has been filed this 8th day of May, 1998 to the Parties of Record.

A handwritten signature in cursive script, reading "Mary Ann Morris", is written over a horizontal line.

Mary Ann Morris

May 8, 1998

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